

United States Bankruptcy Court
Middle District of North Carolina

In re:
Lent Christopher Carr, II
Deltarina V. Carr
Debtors

Case No. 18-80386-lmj
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0418-1

User: admin
Form ID: pdf014

Page 1 of 1
Total Noticed: 4

Date Rcvd: May 20, 2020

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on May 22, 2020.

jdb +Deltarina V. Carr, 3300 Laurinburg Rd., Raeford, NC 28376-7204

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
db +E-mail/PDF: lentcarr@gmail.com May 20 2020 18:36:41 Lent Christopher Carr, II,
3300 Laurinburg Rd., Raeford, NC 28376-7204

cr E-mail/Text: ddudley@hokecounty.org May 20 2020 18:36:47 Hoke County Tax Collector,
P O Box 217, Raeford, NC 28376
E-mail/Text: ddudley@hokecounty.org May 20 2020 18:36:47 Hoke County Tax Collector,
227 N. Main St., Raeford, NC 28376

TOTAL: 3

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: May 22, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on May 20, 2020 at the address(es) listed below:

Erich M. Fabricius on behalf of Joint Debtor Deltarina V. Carr emf@fabriciuslaw.com,
fablaw@parse.bkccn.com,ecf+fablaw@bkccn.com
Erich M. Fabricius on behalf of Debtor Lent Christopher Carr, II emf@fabriciuslaw.com,
fablaw@parse.bkccn.com,ecf+fablaw@bkccn.com
Grady Lee Hunt on behalf of Creditor Hoke County Tax Collector gradyh@huntbrookslaw.com
Richard M. Hutson, II office@cl3dur.com
William P Miller Nicole_farabee@ncmba.uscourts.gov

TOTAL: 5

SO ORDERED.

SIGNED this 20th day of May, 2020.




 LENA MANSORI JAMES
 UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
 MIDDLE DISTRICT OF NORTH CAROLINA
 DURHAM DIVISION**

IN RE:)	Case No. 18-80386
)	
LENT CHRISTOPHER CARR, II)	Chapter 13
DELTARINA V. CARR)	
Debtors.)	
_____)	

ORDER SUSTAINING OBJECTION TO CLAIM

THIS MATTER comes before the Court on the objection of the Debtors to Amended Proof of Claim #3 filed by Hoke County. On September 23, 2019, Hoke County filed this amended claim, which added \$2,186.60 to the prior claim balance, itemized in attachment one as "G.S. 105-374(i)," a reference to a provision in the North Carolina General Statutes providing for attorney fees in certain tax foreclosure situations.

In their objection, the Debtors assert that \$2,186.60 claimed under that statute has never been approved by the state court, and that N.C. Gen. Stat. § 105-374(i) is not a general fee-shifting statute, but one for a specific remedy by a specific court.

Hoke County filed a response on May 18, 2020 requesting that this court find the attorney fee reasonable and overrule the objection. However, such response was untimely filed, having been received by this court after the May 11, 2020 deadline for receipt of responses. Hoke County also acknowledged that no state court awarded it fees under N.C. Gen. Stat. § 105-374(i).

Accordingly, the Court finds Hoke County's response to be both untimely and without merit. Even if the Court were to consider Hoke County's untimely response, N.C. Gen. Stat § 105-374(i) provides that "costs may be taxed in any foreclosure action" and "shall be construed to include one reasonable attorney's fee for the plaintiff in such amount *as the court shall, in its discretion, determine and allow.*"

Because Hoke County points to no state court order allowing the fees it claims under N.C. Gen. Stat. § 105-374(i), those fees are unenforceable under state law, and should be disallowed pursuant to 11 U.S.C. § 502(b)(1).

THEREFORE, IT IS ORDERED that Claim #3 filed by Hoke County is disallowed to the extent of \$2,186.60, and such amount is unenforceable against the Debtors.

END OF DOCUMENT

Parties to be Served

Richard M. Hutson II
Chapter 13 Trustee

Lent and Deltarina Carr
Debtors

Erich M. Fabricius
Attorney for the Debtors

Grady L. Hunt
Attorney for Hoke County

Hoke County Tax Collector
227 N. Main St.
Raeford, NC 28376